

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA**

In Re:)	
)	
JAMES MOORE)	Chapter 13
)	Case No. 13-11325
Debtor.)	
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JAMES MOORE)	
)	
Plaintiff,)	
v.)	Adversary Proceeding No.
)	
COMENITY CAPITAL BANK and its agent)	
QUANTUM3 GROUP LLC)	
)	
Defendants.)	
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**COMPLAINT FOR CONTEMPT OF COURT;
WILLFUL VIOLATION OF DISCHARGE ORDER; AND
REQUEST FOR OTHER EQUITABLE RELIEF PURSUANT TO 11 U.S.C. § 105
INCLUDING REIMBURSEMENT OF ATTORNEYS' FEES TO THE ESTATE**

I. Preliminary Statement

1. On March 18, 2013, James Moore ("Plaintiff") commenced a voluntary Chapter 13 bankruptcy case by filing a petition that was assigned number 13-11325 and an Order confirming the Plan was entered August 26, 2013. *See* Dkt No. 69.

II. Jurisdiction

2. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This matter is a core proceeding.

III. Factual Background

3. On April 22, 2013, Comenity Capital Bank through its agent Quantum3 Group LLC, (“Defendants”) filed a Proof of Claim in the Plaintiff’s Chapter 13 bankruptcy case in the amount of \$654.07 (“Claim No. 2”).

4. Attached to Claim No. 2 was an account detail reflecting the last four (4) numbers of the account as 6406, charged off on 10-16-2006, and Blair listed as the merchant.

5. On April 23, 2013, Plaintiff filed Objection to Claim No. 2 based on the alleged debt listed on Claim No. 2 had been discharged in Plaintiff’s prior Chapter 13 bankruptcy, Case No. 06-11736. *See* Dkt No. 53. The prior Chapter 13 was a case once pending in this Court which has now been closed.

6. An Affidavit of Cheryl Wilson in support of Objection to Claim No. 2 was later filed on June 5, 2013. *See* Dkt. No. 54.

7. On June 7, 2013, an Order was entered sustaining Debtor’s Objection to Claim No. 2. *See* Dkt. No. 57.

8. The Defendants, Comenity Capital Bank or its agent Quantum3 Group, LLC, were not scheduled creditors in pending Chapter 13 Case No. 13-11325.

9. The Defendants, Comenity Capital Bank nor its agent, Quantum3 Group, LLC, were not a party-in-interest on March 18, 2013, at the time of the filing of Chapter 13 Case No. 13-11325.

10. The Defendants, Comenity Capital Bank nor its agent, Quantum3 Group, LLC, were not a party-in-interest on April 2, 2013, at the time of filing of its Proof of Claim No. 2.

11. Based upon information and belief, Plaintiff alleges that Defendants, and/or its agents, wrongfully obtained and used Plaintiff’s protected personally identifiable information to electronically file Claim No. 2.

12. Based upon information and belief, Plaintiff alleges that Defendants wrongfully uses the protected personally identifiable information of Chapter 13 debtors to electronically file proofs of claims in Chapter 13 cases as part of Defendants' regular business practice or in its routine course of business.

13. Defendants' conduct is in willful flagrant disregard of the Notice of Plaintiff's prior Chapter 13 bankruptcy Discharge Order entered by this Court and in flagrant violation of 11 U.S.C. § 1328(c).

14. Defendants' actions, in attempting to collect the previously-discharged debt, clearly illustrate Defendants' contempt and indifference towards the U. S. Bankruptcy Code and this Court's Orders.

15. Defendants' business practices constitute a repetitive abuse of process under 11 U.S.C. § 105, for which sanctions are the appropriate and necessary remedy.

16. Due to Defendants' violation of the Plaintiff's prior Chapter 13 Discharge Order, Plaintiff has incurred unnecessary expenses and attorneys' fees in objecting to Claim No. 2. The payment of these additional attorneys' fees should not be the burden of the Debtor or creditors with valid allowable claims but should be reimbursed to the estate by the Defendants.

WHEREFORE, Plaintiff respectfully requests that this Court enter an Order as follows:

1. Finding the Defendants in willful violation and in contempt of this Court's Discharge Order entered in Case No. 06-11736;
2. A judgment in favor of the Plaintiff's Chapter 13 estate in the amount of \$1,452.28 or an amount to be determined by this Court;
3. A judgment in favor of the Plaintiff individually for the sum of \$15,000.00 in compensatory damages and \$45,000.00 punitive damages for the wrongful

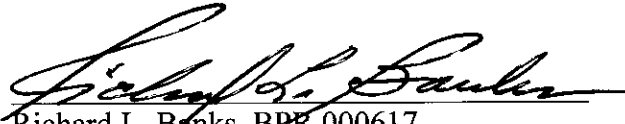
obtaining and use of the Plaintiff's protected personable identifiable information;
and

4. Granting any such additional relief the Court deems necessary and proper under the circumstances.

Respectfully submitted,

Dated: February 12, 2014

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